

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

BOGDAN LIZAK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 08-C-1930
	)	
GREAT MASONRY, INC., and	)	Judge Coar
KRZYSZTOF MENDYS,	)	Magistrate Judge Nolan
	)	
Defendants.	)	

**DEFENDANTS' MOTION TO VACATE DEFAULT AND FOR LEAVE TO  
FILE AN ANSWER OR OTHER RESPONSIVE PLEADING**

Defendants, Great Masonry, Inc. ("Great Masonry") and Krzysztof Mendys ("Mendys"), through counsel, John J. Lynch of the law firm of James L. Kopecky, P.C., hereby request that this honorable Court enter an Order: (1) vacating the default order entered June 4, 2008; and (2) granting Defendants 14 days to file an answer or other responsive pleading to the Complaint. In support hereof, Defendants state as follows:

1. Defendants were served with the Complaint on or about May 9, 2008.
2. Defendant Mendys speaks very little English. He contacted an interpreter who, in turn, contacted John Lynch, an attorney who had previously represented Great Masonry.
3. On May 27, 2008, Mendys and the interpreter met with Mr. Lynch and gave him a copy of the Complaint. Defendants did not retain Mr. Lynch at that time.
4. On June 6, Mendys faxed to Mr. Lynch a copy of Plaintiff's Motion for Entry of a Default Order, which Motion was Noticed for June 9 at 9:00 AM.
5. Mr. Lynch looked at the Court's calendar and did not see the Motion on the

schedule for June 9. Mr. Lynch then placed calls to the Courtroom Deputy as well as Barry Bennett, one of the attorneys for Plaintiff.

6. Mr. Lynch subsequently reviewed the on-line case docket and learned that the Court, on June 4, had entered a clerk's default in the case, stricken the June 9 date, and set the matter for prove-up on July 15 at 9AM.
7. On June 9, Mr. Lynch had a telephone conversation with Mr. Bennett and explained the situation, including the fact that Mr. Lynch had not yet been officially retained. On that same date, Mr. Bennett sent a copy of the Court's June 4 Order to Defendants with a courtesy copy to Mr. Lynch.
8. Defendants officially retained Mr. Lynch on June 16, 2008.
9. Pursuant to FRCP 60(b)(1), Defendants request that this honorable Court vacate the June 4 default order based on mistake, inadvertence and/or excusable neglect.
10. This Motion is being brought within a reasonable time after discovery of the default order.
11. Defendant Mendys speaks very little English and had to contact counsel through an interpreter. Further, Mr. Lynch, who had represented Great Masonry in 2006, had relocated his office in January 2007, making it more difficult for Defendants and the interpreter to locate him, contact him, and arrange a meeting.
12. There will be no prejudice to Plaintiff or a negative impact on the Court if this Motion is granted. Mr. Lynch contacted Mr. Bennett as soon as he learned of the Motion for Default, and is filing this Motion within 9 days of receiving the June 4 Order from Mr. Bennett.
13. It would be just for the Court to vacate its June 4 Order and allow Defendants to

address the lawsuit on its merits.

14. Further, Mr. Lynch is leaving town on a long-planned vacation and will be gone from June 18 through June 26, 2008. The week after that includes the Independence Day holiday. Thus, Defendants ask for time, to and including July 15, 2008, to file an answer or other responsive pleading to the Complaint.

WHEREFORE, based on the foregoing, Defendants respectfully request that this honorable Court enter an Order vacating the June 4, 2008, default order and allowing Defendants until July 15, 2008, to answer or otherwise plead in response to the Complaint in this matter.

June 18, 2008

Respectfully submitted,

Great Masonry, Inc. and Krzysztof Mendys

By: s/John J. Lynch  
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One of Defendants' attorneys

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